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ABSTRACT

The history of the twenty-five year period since the Brown v. Board of Education decision can be divided into three phases. The first phase was from '54 to '64, during which the Court applied its rule of "all deliberate speed." The focus was on desegregating the dual systems of the South, the products of de jure segregation, and all deliberate speed was translated in Southern accents to mean any conceivable delay. Phase two comprised the five years from passage of the Civil Rights Act of 1964 until 1969. Title VI of the act prohibited discrimination wherever federal funds were used, and for the first time the federal government began to take an active role. Phase three must properly be called the backlash phase, and it remains current today. Black young people are still discovering, due to a system that would not teach them to read or add, that the end of their education means the beginning of unemployment. People who are charged with responsibility for education must realize that in the long run, the cost of achieving justice is never so great as the cost of denying it. For that cost is measured by indicators such as crime, mental illness, human decay, and social disintegration. (Author/MLF)

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Remarks Prepared for Delivery To:
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Twenty-five years ago this May, Earl Warren, Chief Justice of the United States Supreme Court delivered, for his colleagues, speaking with one voice, the verdict in that Court's most important decision. Among other words, he wrote:

"Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for public education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is the principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him adjust normally in his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be available to all on equal terms."*

"We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though physical facilities and other "tangible" factors may be equal, deprive the children of the minority group of equal educational opportunities?"

"We believe that it does!"

At the close of the decision, Justice Warren wrote:

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*Brown vs the Board of Education of Topeka, Supreme Court of the United States, 347 U.S. 483 (1954)

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"We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal.**

The Court's cases that day in May came from Topeka, Kansas; from Clarendon County, South Carolina; from Prince Edward County, Virginia; from New Castle County, Delaware.

That decision has its legal origins seven years before, in Jordan, South Carolina, when Levi Pearson appealed, by petition, to the Clarendon County Board of Education for school buses for his three children "and other Negro school children similarly situated."

Its real origins, however, predated the Mayflower. The high Court's decision in Brown vs the Board of Education, Topeka, had its roots in historic American racism.

I say historic not simply because this cancer has been woven into the American fabric from the beginning, but because it played a central role in the formation of our country, the writing of its constitution, its industrial growth, its political process, its foreign and domestic policies, its entire past, its immediate present, its probable future.

For Black Americans, racism has been the overarching element of our experience, the engine of our discontents, the motive force behind our greatest problems.

Next month in speech and ceremony, in Delaware, South Carolina and Kansas, in all parts of the United States where the promise of '54 has yet to be fulfilled, Justice Warren's words will be remembered. "The doctrine of separate but equal has no place," he said.

**Brown vs the Board of Education of Topeka, Supreme Court of the United States, 347 U.S. 483 (1954)

Too many, however, have forgotten that the same Supreme Court, almost a year later, following further argument from both sides in each of the several school cases, had ordered the nation to make haste slowly in achieving the disintegration of the system of separate and unequal schools. They were, in a masterpiece of ambiguitity, "to admit to public schools on a racially nondiscriminatory basis with all deliberate speed the parties to these cases."

They did not set a date certain, as the plaintiffs had hoped. They did not ask for a plan of action within three months, as the federal government's brief had requested. But in the words of Richard Kluger, "Not until the Supreme Court acted in 1954 did the nation acknowledge that it had been blaming the Black man for what it had done to him. His sentence to second class citizenship had been commuted; the quest for meaningful equality--equality in fact as well as law--had begun."***

If the Depression in 1929 had convinced America it was obliged to protect its citizens' well being, the decisions in 1954 and '55 began to convince reluctant Americans they would have to share their bounty, their knowledge and their world. For the American Negro, as Kluger notes:

"No more would he be a grinning supplicant for the benefactions and discards of the master class; no more would he be a party to his own degradation. He was both thrilled that the signal for the demise of his class status had come from on high and angry that it had taken so long and first extracted so steep a price in suffering."****

***Simple Justice, by Righard Kluger, Alfred A. Knopf, New York, 1976, pp 748

****Kluger, pp749

The history of Brown from then to now can properly be divided into three phases, the first from '54 to '64, during which the Court applied its rule of "all deliberate speed." The emphasis was more on "deliberate" than speed. The focus was on desegregating the dual systems of the South, the products of de jure segregation, and all deliberate speed was translated in Southern accents to mean any conceivable delay. Actual school integration existed more as a legal fiction than a physical fact. The bold soldier president of the United States refused to endorse or oppose the Brown decision, and the White South, emboldened by his rectitude reacted characteristically. Their tactics included violence, expansion of private schools, state support for fleeing white students, proposals to abolish public education, repeal and modification of compulsory attendance laws, interposition and nullification. Prince Edward County in Virginia simply closed its public schools from 1959 until 1964, believing that stupid children were better than integrated ones. More than 15 variations of legislative resistance played to popular acclaim in 9 southern states. By the end of 1964, more than 97% of all the Black children in the South still attended Black schools.

Phase two comprised the five years from passage of the Civil Rights Act of 1964 until 1969. Title VI of the act prohibited discrimination wherever federal funds were used, and for the first time, under a Southern president, the federal government began to take an active role. In the ten years following the '64 act, the Department of Justice brought legal actions against more than 500 school districts, and the Department of Health, Education and Welfare filed more than 600 actions. In 1965, the Elementary and Secondary Education Act made more federal monies available to local school districts, and not coincidentally, gave the government the power of the purse to

compel obedience to Court orders.

In 1968, in the Green decision, the Court declared "all deliberate speed" dead, and required school districts to produce a plan "which promises realistically to work and promises to work now."

By the end of this period, the number of Black children in school with white ones had risen from less than 3% to nearly 14%.

Phase three must properly be called the backlash phase, and it remains current today. It began in 1968 with the elevation to the presidency of a candidate ressurected from political death; his election awakened the slumbering and sullen American majority and gave them voice. They began a movement, halting and disorganized at first but in solid lockstep now, to roll back the gains made by America's minority population.

They cut back on school integration, on federal aid to education on the pathetically small programs founded to make war on economic inadequacy.

They changed the courageous Warren Court that gave us Brown to the cautious Burger claque that gave us Bakke.

But the worse damage was done when the victim was once again made to feel part of the crime, when the federal government began a hasty and undignified withdrawal from its role as protector of the poor.

As the focus shifted away from de jure segregation in the South toward de facto segregation in the North, the discredited tactics of equivocation and delay were revived.

In Richard Nixon's rapid rhetoric, the traditional yellow school bus became a menacing machine, mutilating a newly discovered American shrine, the neighborhood school. In early 1971, the Harris poll showed that 47% of the American people were for busing to achieve integration. Only 41%

were opposed. A year later, support had slipped to only 25%, and 69% of all Americans wanted to stop the buses rolling.

In 1968, the last year of the Johnson Presidency, the Department of Health, Education and Welfare reviewed 28 communities for compliance with desegregation guidelines; in Nixon's first year, the figure dropped to 16; in 1970 to 15; in 1971 to 11; in 1972 to 9; in 1973 to one, and 1974 to zero.

A survey made of 1,000 school districts showed that two-thirds had desegregated between 1954 and 1975, but over half of these had desegregated in just two schools years--'68 - '69, and '70 - '71. After 1972, the desegregation percentage fell precipitiously to 9% a year until 1975. So sluggish was Nixon's HEW that in 1973 a federal judge had to order enforcement proceedings against 74 Southern school districts found in non-compliance two years earlier.

But even Nixon's evil genius could not totally retard the momentum of 200 years; in the fall of 1969, his new Chief Justice, Warren Burger, speaking for a unanimous court, declared "the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools." Fifteen years of deliberate speed was too much!

This extra weight on our public schools has been added to its traditional burden of expectation in America's vision of itself, its hopes for its future. Our schools have been seen as the key to revolutionary social change, the motor of upward mobility, the great homogenizer of the civilization for the savage, the proper path out of poverty, the regulation road to riches, the precondition of a workable democracy, the answer to every problem from crime to mortality. Education has been, in the American vision, the means to the new millennium and the fixer of first resort for all of society's ills.

This is a heavy, if not impossible, burden for any social institution to bear, and for the last 25 years, the burden of educational expectation has been heavier.

If the charge is heavy and the expectation excessive, they are not misplaced. The connection between educational attainment and economic achievement, long assumed automatically, has been validated by scholars in recent years.

Subtracting the influence of racism in the job market, both Black and white high school graduates have higher employment rates than their less educated former classmates.

But these successes are conditioned by the larger world outside the classroom, a world unable yet today to come to grips with 200 years of caste and class discrimination.

A while ago, when President Carter was orchestrating an unofficial administration campaign against Medicaid payments for abortions, he quoted the late President Kennedy who had said that "life is unfair." Just how unfair it is for the percentage of the population that share some African heritage, and how decisions of school boards and other public policy determinations have affected their lives, can be seen clearly by examining the progress of two American men, born in the same time 55 years ago.

Let us make one man an imaginary figure, an approximate person, the statistically average 55-year old Black American man. We'll call him Jackson Johnson.

Let us color our other man white; we'll leave him nameless for now.

Let us place our two men in a small, storybook Southern Georgia town,

and trace their parallel development. We can see how home and hearth, how school and community shape their lives and their children's fortunes. We may learn that today's pupil can be no better than yesterday's dropout, and that today's success was preordained by yesterday's accomplishments.

Our white man comes from five generations of Georgia landowners, cotton farmers, merchants--not rich men, but men of some substance, staunch segregationists every one, men who profited from the savage system of economic and political peonage that was the lynchpin of the Southern economy. Our white man's father was a community leader, a member of the local school board, one of the first directors of the local rural electrification association.

Our black man comes from five generations of slaves, serfs and tenant farmers. His father was illiterate. Some of his forebears, as slaves, had been skilled craftsmen in the service of their owners, but following emancipation and reconstruction, were relegated to unskilled and unpleasant tasks held repugnant by white men. When this unattractive work was improved by machine, it became seductive to white men too, and blacks lost these lowly occupations as well.

In 1935 when our two young men prepared to enter their separate and unequal sixth grades, their native county was spending $60.53 on every white child's education, $5.00 was spent to teach the black ones.

These figures aren't peculiar to backwater Georgia in the middle 1930's; they are instead part of a deliberate pattern that continues until this day, a design effectively retarding the intellectual and physical growth of its victims while advancing great human profit for the perpetrators.

The latter grew and prospered in a world built on white-skin privilege;

the latter learned quickly that the entire weight of public policy was intended to educate them for permanent peonage. Our white youth shared with his average white peers a unique launching pad, the myth turned truth of presidential possibilities in every white boy's breast, the promise of unlimited and unobstructed horizons to arm him and encourage him.

Our Black youth was fed on the myths of inferiority; he left school burdened with an education designed to turn that myth into reality.

The year our white young man graduated from high school, the second world war began. After a year of study at nearby segregated, tax-supported Georgia Southwestern College at Americus, he entered segregated, tax-supported Georgia Tech as a member of the segregated, tax-supported Naval ROTC. The following year he entered one of America's elite and prestige institutions, the segregated, tax-supported Naval Academy at Annapolis. At Georgia Southwestern, he faced no competition from anyone whose skins were dark; at Georgia Tech, no women were allowed, white or black; the Naval Academy completed this androcentric education, and he graduated in the top tenth of his class.

He left the service in 1953 and returned home to become a marginal millionaire as an agribusinessman. In 1962, at 38-years old, he entered state politics after serving as a member of his local school board. There's some hope for all of you, for he became President of the United States. He and his wife had three sons, and then a late child, a daughter named Amy.

For these children, educational and occupational horizons are virtually unlimited, circumscribed only by their interests and their appetites. Life for them is less a matter of struggle than of choice.

Jackson Johnson, our Black man, didn't graduate from high school; in fact, he didn't finish the first year. When the depression destroyed the cotton economy, he and his family moved to Atlanta where they worked at odd, menial jobs. When war broke out, our man Johnson, motivated perhaps by the opportunity to prove himself as patriotic and as worthy as the next man, or prompted perhaps by the chance at a regular paycheck and three squares a day, entered the army as a private, served in a segregated unit, and was discharged as a corporal. He had managed to learn a skill. He had become a cook.

His first child was enrolled in school in 1948. That year the South where most black Americans still lived was spending twice as much money to educate white children as it spent to teach black ones. They paid four times as much for white school buildings as they spent for black ones. They paid white teachers salaries 30% higher. They spent $42 million dollars busing white children to school and only $1 million for black school buses. The Southern states were spending $86 million dollars for white colleges and only $5 million for black ones. There was not a single institution in the 13-state South where a Black person could receive a Ph.D.

The Johnson family eventually moved away from the South in search of better pay and a better way of life. Like our other example, Mr. Johnson and his wife in school, and her future educational prospects are not good ones. Her father's deprivations have hobbled his children. They are deprived by what he could not give as much as by what he did.

Debates about family strength or the welfare culture mean little to

the Johnson family. They have worked hard all their lives. They have sacrificed for their country. They are pious and they are poor, and they sit in Harlem and on Chicago's south side and in Watts and wonder why their American dream is a nightmare.

The little Johnson girl doesn't know that the median income for Black families is 40% less than for whites. She doesn't know that four times as many Black as white families live below the poverty line, or that unemployment for Blacks is twice, and in some cities, four times the rate for whites.

She doesn't know that Black men, like her father and older brothers, lost a year of expectable life in the ten years of the 1960's. She doesn't know that the Rand Corporation estimates it will take 30 years for Black men to earn wages equal to white men their age. She doesn't know that Black men with four years of college can expect to earn only $110 more each year than boys with no college education at all, but if she doesn't know the numbers, she knows the people, and they tell her without speaking that life for her will never be a chrystal stair.

The biggest failure of school integration has been in the urban centers of the North, where my real white family and imaginary Black family now live. As Black immigrants streamed into these cities, white immigrants streamed out. It is in these central cities where two-thirds of America's Blacks live today, and again the numbers tell the story.

Black nine-year olds are about 13 percentage points behind white 9-year olds in overall reading levels. In four years, the gap widens to 17 points, and by age 17 to 19 points. Nearly 17% of Black 17-year olds are judged functionally illiterate, while the national rate is only 13% and only 8% for whites.

The National Science Foundation reports low scores for blacks compared to whites on tests for scientific potential among high school students, and notes these results have not improved over the 15 years between 1960 and 1975.

In 1976, Blacks earned only 5% of all graduate degrees, and 8% of all associate degrees. We earned only 6% of the BA and MA degrees, 5% of the medical and law degrees, and fewer than 4% of the Ph.D.'s.

Jackson Johnson's little girl may become, through grit and drive and some extraordinary push, one of that magic 4%, but she does not know that large numbers of people in California, miles from her little world, have unleashed a hornet's nest that threatens her chance at even finishing high school.

The voters in the Golden State, including 40% of the Blacks, have voted to keep their gold to themselves. They objected, many said, to the high costs of welfare, which in California as in most states is not financed by the property taxes they have cut in half. But these taxes do pay for education, and as school budgets are cut, we may expect welfare rolls to rise proportionately.

The taxpayers' revolt, this social arson at the grassroots is bound to affect the never popular range of compensatory education and affirmative action programs that have just began to hold out a helping hand to American minorities. And it rises in ugly harmony with a growing chorus of voices which claim that integration has not worked and that compensation is unfair to the majority.

But it does work.

It works least well in those areas of the country that have tried it the least; in the Northeast, where schools are still rigidly segregated, nothing much has improved the educational performance of Black children.

The South presents a different picture. A 1976 study by the National Assessment showed a national gain in the reading level of Black nine-year olds. In the Southeast, however, Blacks had gained nearly 3 percentage points on whites. It is in the Southeast, of course, that schools are the least segregated in the country.

But in addition to the human toll in lives thwarted and lost, the difficulties and setbacks of the long years since 1954 have sapped the will of many Black Americans.

Black school teachers and administrators, angry at being told their work and product were inferior, rebelled against the notion they could not educate Black children. The white South, at least, has made pretty sure they will not educate white ones.

Black parents, terrified of having their children face foul-mouthed harridans like those in Boston and Little Rock, wondered if separate but equal might not be a safer path to tread.

Black young people, having never known the back of the bus, wondered whether a world set apart from them might not be easier than the regimented chaos school integration so often seems to mean.

And now these young people are discovering, through competency tests, that they begin life as adults at the back of the line, that they are pronounced failures by a system that would not teach them to read or add, that the end of their education means the beginning of unemployment.

When the idea of racial justice seemed a new and widely popular fad a few years ago, there seemed also to be an assumption that it would be free. It hasn't been, of course. Change never is. And, when it began to pinch, its popularity began to wane. In the long run, however, the cost of achieving justice is never so great as the cost of denying it. For that cost is measured by indicators such as crime, mental illness, human decay, and social disintegration.

Education is the cutting edge of social change. It also seems to be the cutting edge of reaction and retrenchment. People like yourselves, who are charged with responsibility for education, are caught in the middle, and I do not envy you the difficulty of your task. I know that the issues of integration and compensation and affirmative action sometimes appear impossibly thorny and complex and often, almost too much of a burden on top of fiscal problems, falling test scores and public criticism that Johnny, white or black, can't read.

But for all that there is an overriding simplicity at issue, contained in a thought I would like to leave with you. It is not mine, but a passage from an NAACP brief argued before the Supreme Court:

"These infant appellants are asserting the most important secular claims that can be put forward by children, the claim to learn and grow, and the inseparably connected but even more important claim to be treated as entire citizens of the society into which they have been born. We have discovered no case in which such rights, once established, have been postponed by a cautious calculation of convenience."

That passage was written 25 years ago as the Supreme Court prepared to take up the Brown case. But it remains precisely the issue today, in the aftermath of Bakke.